

**IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI**

ASSOCIATED INTERNATIONAL )  
INSURANCE COMPANY, an Illinois )  
Corporation, )

Plaintiff, )

vs. )

FIRST SPECIALTY INSURANCE )  
CORPORATION, a Missouri Corporation, )

Defendant. )

Civil Action No. 16cv239 HSO-JCG

**MOTION TO ABSTAIN**

Defendant, First Specialty Insurance Corporation (“FSIC”), submits its Motion to Abstain (“Motion”) and states as follows:

1. If the Court denies FSIC’s simultaneously filed Motion To Dismiss Complaint Pursuant To Federal Rules of Civil Procedure 12(b)(1), 12(b)(6) and 12(b)(7) (“12(b) Motion”), FSIC requests the court to exercise its discretion under the Declaratory Judgment Act, 28 U.S.C. § 2201(a), to abstain from exercising jurisdiction over this action.

2. Plaintiff, Associated International Insurance Company (“AIIC”), requests this court to declare AIIC’s and FSIC’s obligations, if any, to indemnify non-party insureds in connection with a July 2014 explosion at the Moss Point, Mississippi facility of Omega Protein, Inc. (“Omega”). AIIC seeks substantially the same declaration in an action that AIIC filed against the involved non-party insureds, Accu-Fab & Construction, Inc. (“Accu-Fab”) and Omega, in the Circuit Court of Jackson County, Mississippi on or about May 15, 2015 (“AIIC State Court DJA”). That action remains pending. Resolution of that action will fully resolve the issues

regarding AIIC's defense and indemnity obligations regarding which AIIC seeks a declaration in this action.

3. In addition to seeking the same relief that AIIC seeks in the AIIC State Court DJA, this action also seeks a declaration that the "duties, if any," to defend and indemnify Accu-Fab and Omega "are owed by First Specialty." Although FSIC is not a party to the AIIC State Court DJA, there is no allegation of a dispute between FSIC and its insured, Omega.

4. This motion relies on the referenced Memorandum and the following exhibits:

Exhibit Number	Description
1	Cover page of Omega's Motion for Summary Judgment filed in AIIC State Court DJA on July 13, 2015
2	Cover page of Omega's Motion for Summary Judgment filed in AIIC State Court DJA on August 25, 2016.

WHEREFORE, FSIC requests this Honorable Court to grant its Motion to Abstain.

Respectfully submitted, this the 25<sup>th</sup> day of August, 2016.

Respectfully submitted,

/s/ David A. Barfield

David A. Barfield, (MS Bar No. 1994)  
One of the attorneys for Defendant, First  
Specialty Insurance Corporation

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**CERTIFICATE OF SERVICE**

I, David A. Barfield, one of the attorneys of record for First Specialty Insurance Corporation, do hereby certify that I have this day caused to be sent via ECF, a true and correct copy of the above and foregoing document to:

Mark D. Morrison, Esq.  
Adcock & Morrison, PLLC  
P. O. Box 3308  
Ridgeland, MS 39158

***ATTORNEY FOR PLAINTIFF***

So certified, this the 25<sup>th</sup> day of August, 2016.

/s/ David A. Barfield  
David A. Barfield

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